# Calendar No. 373

84TH CONGRESS, 1st Session } SENATE { REPORT No. 369

## AZTEC LAND BILL

MAY 23 (legislative day, MAY 2), 1955.—Ordered to be printed

Mr. GOLDWATER, from the Committee on Interior and Insular Affairs, submitted the following

## REPORT

[To accompany S. 55]

The Committee on Interior and Insular Affairs, to whom was referred the bill (S. 55) to authorize the acceptance on behalf of the United States of the conveyance and release by the Aztec Land & Cattle Co., Ltd., of its right, title, and interest in lands within the Coconino and Sitgreaves National Forests, in the State of Arizona, and the payment to said company of the value of such lands, and for other purposes, having considered the same, report favorably thereon with the following amendments and with the recommendation that the bill, as amended, do pass:

On page 2, beginning with line 2, strike out all through line 9 and insert in lieu thereof the following:

Aztec Land and Cattle Company, Limited, such amount as may be determined by the National Forest Reservation Commission, established pursuant to section 4 of the Act of March 1, 1911, as amended (16 U. S. C. 513), to be the fair value of such lands: *Provided*, That such amount shall not be in excess of $7,409,263 including any and all mineral values.

On page 3, line 16, after the word "status", insert "to be subject to the same laws".

### PURPOSE OF THE BILL

The purpose of the bill is to authorize the acceptance on behalf of the United States of the conveyance and release by the Aztec Land & Cattle Co., Ltd., of its right, title, and interest in lands within the Coconino and Sitgreaves National Forests, in the State of Arizona, and the payment to said company of the value of such lands, and for other purposes.

This bill provides that when the Aztec Land & Cattle Co., Ltd., files with the Secretary of the Interior a release of all its interests to certain lands in Arizona, the Secretary of the Treasury is directed to pay to the company the value of the land and timber resources. Thereafter the lands would be administered as national forest lands.

Approximately 98,000 acres of land are covered by the bill. These lands were within the indemnity limits of a railroad grant made in

1866. However, these lands were not patented and in 1898 they were included within forest reserves and administered since that time as parts of national forests. In 1942 application for patent was filed under provisions of the Transportation Act of 1940 (49 U. S. C., 1946 ed., sec. 65). The patent application was rejected by the Department of the Interior, and the applicants thereupon commenced action in the courts. The courts ruled in favor of the applicants, and a petition for review of the case by the Supreme Court was not granted. Therefore, unless the bill becomes law and the Aztec Land & Cattle Co. agrees to release its interests to the United States, patent must issue to the company.

The lands affected are intermingled in a checkerboard arrangement with Forest Service lands. They are scattered over an area of approximately 560 square miles, rather than in a solid block and, hence, pose difficult and unusual problems in relation to access roads, transportation of timber, administration, and operation. These lands are integral parts of two national forests. According to the report of the Department of Agriculture, United States Forest Service patenting of the lands will reduce the available timber cut under a sustained-yield basis from these two national forests by 14 percent, or by 15.2 million board feet per year. Of this amount, some 4.7 million board feet will be from the Flagstaff Federal sustained-yield unit, which supplies lumber mills at Flagstaff, Ariz. Other sustained-yield cuts in these national forests will be reduced by 34 percent if the lands are patented. Timber-using industries in or near Flagstaff and Winslow, Ariz., which now employ approximately 1,000 persons, will suffer a material reduction in the amount of timber available to them on a sustained basis which, in turn, will have a serious adverse effect on the entire economy of the area.

Furthermore, if the lands are patented to private individuals it is entirely probable that the timber thereon will be clear cut, which would cause irreparable damage to the watersheds of the Verde and Little Colorado Rivers. Generally, the soils in this area are quite erosible so that depletion of the vegetative cover would be injurious to these watersheds. To protect them, it is vitally necessary that uniform management practices of the Forest Service be continued.

Therefore, in order to protect both the economy of the area and to preserve the timber and other resources for the use and benefit of future generations, it is necessary that the Congress enact this legislation.

The first amendment is to authorize the National Forest Reservation Commission to determine the fair value of the lands involved, provided that the amount shall not exceed $7,409,263, including any and all mineral values. The committee adopted this amendment because of the fact that there is disagreement among the various Federal agencies as to what constitutes the fair value of the lands involved. It is believed that the Commission, if authorized by law, is the most appropriate agency to make final determination of the question of price within the limitation of $7,409,263.

The second amendment was suggested by a departmental witness in order to make certain that once the lands are conveyed to the Government, they will be classified as public domain lands under the jurisdiction and administration of the Forest Service.

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Calendar No. 374

84TH CONGRESS, 1st Session | SENATE | REPORT No. 370

# AMENDING THE ACT OF JULY 3, 1952, RELATING TO RESEARCH IN THE DEVELOPMENT AND UTILIZATION OF SALINE WATERS

MAY 23 (legislative day, MAY 2), 1955.—Ordered to be printed

Mr. ANDERSON of New Mexico, from the Committee on Interior and Insular Affairs, submitted the following

## REPORT

[To accompany S. 516]

The Committee on Interior and Insular Affairs, to whom was referred the bill (S. 516) to amend the act of July 3, 1952, relating to research in the development and utilization of saline waters, having considered the same, report favorably thereon, with amendments, and recommend that the bill, as amended, do pass.

The amendments are as follows:

### AMENDMENTS

The amendments recommended by the committee are as follows:

Page 2, line 3, insert new section (2) as follows:

(2) by modifying section 3 of said Act to add the following: "Similarly, the fullest cooperation by and with the Atomic Energy Commission and the Civil Defense Administration in research and in determining the future needs of the Nation with respect to potable water and ways and means to provide same shall be carried out in the interest of achieving the objectives of the program."

Page 2, line 3, strike out "(2)" and insert "(3)".

Page 2, line 5, strike out "$6,000,000" and insert "$10,000,000".

Page 2, line 17, strike out "more" and insert "less".

Page 2, line 17, strike out "$500,000" and insert "$2,500,000".

Page 3, line 18, after word "Federal", insert "or educational institution (State or private)".

Page 3, line 20, change period to colon; strike out quotation marks and insert the following:

*Provided*, That not to exceed 10 per centum of the funds available in any one year for research and development may be expended in cooperation with public or private agencies in foreign countries in the development of processes useful to the program in the United States: *And provided further*, That contracts or

agreements made in pursuance of this proviso shall provide that the results or information developed in connection therewith shall be available without cost to the program in the United States herein authorized.

## PURPOSE OF THE BILL

The bill as amended would extend the Saline Water Act of 1952 to provide not only for the uninterrupted continuance of the saline-water program but would authorize the financing of expedited activities in saline-water conversion research and development. Emphasis is placed on the urgency of bringing to the point of effective tests in the field or pilot plants of economically feasible processes for converting or refining sea water and other saline waters to potable fresh water for agricultural, industrial, municipal, and other beneficial uses. Concentration of the best scientific knowledge on the subject in the field of Government, education, and private industry, to achieve effective results is a major objective of the bill as amended.

When the program was inaugurated by the 82d Congress in 1952, the objectives were based primarily on strictly domestic requirements as then foreseen. For instance the National Geographic magazine, August 1952, printed an article by Nichols and Colton which told of the worldwide apprehension in these words:

> When drought hangs hot over the land, when fields parch and wells run dry, men in many parts of the world, in their seasons look to the sky and pray for water—maya, shui, pani in Arabic, Chinese, Hindustani, respectively.

In 1952 the population of the United States exceeded 156 million. Today, it is in excess of 163 million. By 1975, the Nation's population will exceed 200 million.

The President's Paley Commission in June 1952 reported:

Daily water use in the United States exceeds 185 billion gallons annually, or 1,100 gallons for each man, woman, and child, for municipal, rural, direct industrial, and irrigated agricultural purposes.

By 1975, the estimated water requirements in the United States will have doubled to more than 2,200 gallons per person annually.

Municipal and rural uses will increase at least 50 percent in the same period.

Direct industrial uses will be 2½ to 3 times as great, an increase of 170 percent in less than 25 years.

Irrigated agricultural requirements will expand at least 25 percent with the increased demand extending to various sections of the country in addition to the arid and semiarid western areas where irrigation is essential to sustain agriculture. This expansion involves the demineralization of brackish water to assure its suitability for irrigation.

It was in recognition of these factors outlined that undoubtedly led the Congress to this declaration in Public Law 448, 82d Congress:

> That, in view of the acute shortage of water in the arid areas of the Nation and elsewhere and the excessive use of underground waters throughout the Nation, it is the policy of the Congress to provide for the development of practicable low-cost means of producing from sea water, or from other saline waters, water of a quality suitable for agriculture, industrial, municipal, and other beneficial consumptive uses on a scale sufficient to determine the feasibility of the development of such production and distribution on a large-scale basis, for the purpose of conserving and increasing the water resources of the Nation.

All that the 82d Congress recognized continues to reflect the imperative need for speeding the objectives of the program. There is, however, the committee finds, the urgency of recognizing the fact that we are now living in an atomic age where the destruction of a water supply system—a single reservoir—would imperil millions of people even though the city itself with its buildings and facilities might remain unscathed. Consequently, ways and means must be found and without undue delay—for perfecting devices, methods or whatever the facilities may be designated that can be made available any time or any place in the event of a national emergency.

This committee is not acting in the role of an alarmist, but it brings facts and circumstances of this character to the attention of the Senate and the Congress as the basis for recommending the amendments it proposes to S. 516.

In short, the Committee proposes that the Congress authorize expanded implementation of the saline-water program so that the Department of the Interior can proceed to get results. It would anticipate that with an affirmative understanding of the problem, the intent of Congress, and its crucial implications, technical and legal roadblocks would be leveled by liberal administrative interpretations so that results may be registered in accord with the intent of the Congress.

In the irrigated agricultural areas, principally in the western third of the Nation, water suitable for the production of crops is imperative. Brackish supplies of surface or underground water threaten extensive irrigated areas that are vital to the maintenance of the economy of established areas in 17 Western States.

The committee has been impressed with the interest in the saline-water program in California and the intermountain States which have been seeking solutions of the problems growing out of controversies over the waters of the Colorado River. As evidence by the support of the program in the House committee and in debates on a companion bill on the floor, the possibilities of refining ocean water for potable uses in Pacific coast areas is receiving more and more support. The rapid growth in population, and the expansion of irrigated agriculture and industry in southern California and Arizona make imperative the development of new sources of fresh water. This result is inescapable, it appears to the committee, regardless of the outcome of litigation and controversy over the waters of the Colorado River.

## MORE USE OF GOVERNMENT LABORATORIES

The committee stresses the view expressed in section (1) of the bill that greater use should be made of existing Federal scientific laboratories for research and technical development work. This activity looks to determination of the lowest economical investment and operating costs as well as the development of the best plant designs and conditions of operating pilot plants and for field tests that may be found necessary and desirable to bring about demonstrable results. In the proposed authorization of additional funds for work in Federal laboratories, provision is also made for expenditures in similar facilities of State and private educational institutions.

Cognizance was also taken by the committee of the potentials of the saline-water program as an essential means of aiding cities and towns

in the event of emergencies that might result in the destruction of municipal water systems or impair sources of supply that are vital to the survival of vast segments of the population. An amendment to the bill requires close cooperation and coordination of the saline-water program with and by the Atomic Energy Commission and Civil Defense Administration in research and in determining the future needs of the Nation with respect to potable water and ways and means to provide adequate supplies. The 1952 act provided for cooperation by and with the Department of Defense and other Government agencies, Federal and State, including educational institutions. National and world conditions emphasize the desirability of tying the saline-water program in directly with the Atomic Energy and Civil Defense activities.

## MORE FUNDS FOR RESEARCH AND DEVELOPMENT

An amendment to section 3 increases the authorized appropriations to $10 million from $6 million, as proposed in the bill as introduced in extending the program from 1958 to 1963 or 10 years from the original initiation in 1953. Because of the nature of research and related activities, more flexibility is provided in administering contracts, grants, or agreements as the authorization period draws to a close.

The act of 1952 limited appropriations for the initial 5-year period to $2 million. The progress made in the program in the comparatively brief period it has been in operation justifies the confidence of the original sponsors of the legislation and warrants its continuance with greater financial support, the committee feels.

For instance, at the beginning of the program the cost of converting sea water to fresh water by the most widely recognized processes then in use was estimated at from $400 to $500 an acre-foot. The initial cost goals in the program were set at $125 per acre-foot for converting sea water to fresh for municipal purposes and $40 per acre-foot for irrigation supplies. Costs of demineralizing brackish water of lower saline content available for irrigation or domestic use in inland areas were proportionately less.

Field tests now in progress in Arizona in connection with an irrigation district and scheduled for South Dakota on municipal water will point toward the economical results of at least one process developed by the program in cooperation with a private concern. Surveys indicating the location of inland irrigated areas where brackish water is imperiling irrigation supplies have been made. The concentration on the demineralization processes is in recognition of the vital place irrigation and inland water uses for industrial, municipal, and domestic purposes have in the national economy.

Although much work remains to be done before the initial goals are fully realized, the objectives are being approached and it is believed they can be reached and costs lowered with a vigorous approach, more adequately financed. In other words, the results to date indicate that the conversion of sea water to fresh water at a price which municipal users and some industries might pay and the demineralization of brackish water for irrigation and other inland uses may be in sight.

Recent results have indicated that no single process will provide fresh water for all purposes at all locations and under all circumstances. Thus, it is desirable that several different principles, processes, and combinations of processes be investigated and developed concurrently.

In addition, it is becoming increasingly apparent that as the cost of energy is a limiting factor in any process, nonconventional low-cost energy must be investigated in connection with process development and use. As has been pointed out heretofore, the energy factor is of the utmost importance.

Testimony presented to the committee makes it clear that the benefits from successful development of low-cost saline-water-conversion methods will be felt in all parts of the Nation as well as other parts of the world.

For these reasons, the committee concluded that a substantial increase in the authorized appropriation would be in the interest of the national welfare. Hence, increase in the appropriation to $10 million for the 10-year period was considered the minimum that should be made available for all facets of the program.

As previously indicated the committee concurs in the view that greater use should be made of Federal scientific laboratories so that the program may have the benefit of independent evaluations of the more promising processes. However, it was felt that with the increased total authorization of funds, a greater proportion should be available for research and development in Federal laboratories as well as those of State and private educational institutions, which are qualified to do effective laboratory work in this field. The fund specified for laboratory work of State and private institutions is intended to be in addition to any contracts or grants to educational institutions for other than strictly laboratory activities.

## COOPERATION WITH FOREIGN ACTIVITIES

The committee agrees with the view that it is imperative that all reasonably promising solutions should be explored irrespective of the geographical location of the research. Consequently, an amendment is included in the bill as reported which would permit limited expenditures in cooperation with public or private agencies in foreign countries with the proviso that the results of such cooperation shall be available without cost to the program in the United States. This exchange of ideas and results should be invaluable since many foreign areas are confronted by water problems that are as acute, if not more so, than those in the United States.

In connection with contracts, agreements, or grants under the program, either in this country or abroad, the contractors or recipients should be required to coordinate specific activities within their own fields or areas so as to minimize the administrative supervision required with the limited funds available to the Department. This observation by the committee leads to the suggestion that the Secretary of the Interior and his advisers should examine and reexamine the operations of the program with a view to possible concentration of the activities in the direction of limiting contracts, grants, or agreements to the most promising processes.

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### OPERATIONS OF THE PROGRAM

The committee observes that the administration of the saline-water program in the Department of the Interior is being continued as a responsibility of the Office of the Secretary similar to the approach inaugurated under the preceding administration. It agrees with the House committee's observations that this arrangement is preferable to assigning the activity to one bureau or agency. Full advantage should be taken of the expert knowledge in the Geological Survey, Bureau of Reclamation, Bureau of Mines, or elsewhere in the Department, or in any other Government agency, including use of laboratory facilities for which funds are authorized for expenditure other than for the administrative activities of the program within the appropriation limitations for the Department. The committee's intention is to provide adequately within the limits of the overall appropriation for laboratory and field tests in cooperation with Federal agencies as well as State and private educational institutions looking to energization of an action program.

It is the committee's understanding that the expanded and accelerated program might best be carried out by emphasizing the urgency of bringing research and development to satisfactory conclusions that will produce results through (1) federally financed contracts with private scientists and engineers, educational institutions, scientific organizations, and engineering firms for conducting scientific research as well as existing Federal laboratories for independent evaluation of proposals; (2) encouraging development of saline-water conversion processes by correlating and coordinating efforts through laboratory and field tests and otherwise; (3) stimulating the interest of private and business organizations and individuals in the program; (4) making careful engineering studies to ascertain lowest investment and operating costs, as well as determine best plant design and conditions of operation; and (5) cooperating with public and private agencies in foreign countries through financial aid and exchange of ideas.

The committee has been impressed with the continued interest and association with the program of the members of the advisory group, originally named by a former Secretary of the Interior in 1952. It is a healthy indication of the recognition of the potentials and objectives of the program that outstanding educators, industrialists and scientists continue their interest and concern with the objectives originally outlined.

### REPORT OF THE BUREAU OF THE BUDGET

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
*Washington, D. C., March 2, 1955.*

Hon. JAMES E. MURRAY,
*Chairman, Committee on Interior and Insular Affairs,*
*United States Senate, Washington, D. C.*

MY DEAR MR. CHAIRMAN: This will acknowledge Mr. Stewart French's letter of January 20, 1955, requesting the views of the Bureau of the Budget on S. 516, a bill to amend the act of July 3, 1952, relating to research in the development and utilization of saline waters.

The proposed legislation would amend the existing act by extending the life of the program from 5 years to 10 years for active research with 3 additional years to complete existing research projects and to correlate data and publish results. In addition, this bill would increase the maximum authorization for the program from $2 million to $6 million. Within this authorization the maxi-

mum amount for departmental expenditures would be raised from $500,000 to $1,500,000. The amendment further permits the expenditure of not more than $500,000 for work in Federal laboratories.

The Department of the Interior and the National Science Foundation have reported to this Bureau that they consider this to be an important area of research and therefore recommend enactment of this legislation.

The Bureau of the Budget concurs in the views expressed above and recommends that your committee give favorable consideration to this bill.

Sincerely yours,

DONALD R. BELCHER, *Assistant Director.*

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DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
*Washington 25, D. C., February 16, 1955.*

Hon. JAMES E. MURRAY,
*Chairman, Committee on Interior and Insular Affairs,*
*United States Senate, Washington 25, D. C.*

MY DEAR SENATOR MURRAY: You have requested a report on S. 516, a bill to amend the act of July 3, 1952, relating to research in the development and utilization of saline waters.

The act of July 3, 1952 (66 Stat. 328, 42 U. S. C., 1952 ed., secs. 1951ff), authorized the appropriation of a total of $2 million to enable this Department to carry on, through contracts with private scientists and engineers, educational institutions, scientific organizations, and engineering firms, a 5-year research program looking to "the development of practicable low-cost means of producing from sea water, or from other saline waters, water of a quality suitable for agricultural, industrial, municipal, and other beneficial consumptive uses * * *."

Enactment of S. 516 would modify the basic act by extending the period under which operations can be conducted under it, by increasing the amount authorized to be appropriated for the conduct of these operations, and by permitting research to be carried on to a limited extent in existing Government laboratories.

It is the recommendation of this Department that S. 516 be enacted.

Continued expansion of our industries, our growing populations, and expanding agricultural production have increased tremendously the demand for large quantities of fresh water. This continued growth and expansion has placed a severe drain on our water resources in certain areas. In many instances, new reservoirs have had to be constructed and water transported over great distances; in other cases the water supply has been supplemented by new wells which have lowered the water table. The pumping of ground water for irrigation in many areas has been at rates considerably above the safe yields as estimated by the United States Geological Survey. The sources of water on which we normally rely are gradually being exhausted and, through use and reuse, the supplies derived from these sources are being contaminated. The need for finding additional fresh water sources therefore is obvious.

Results during the past year have demonstrated the need for, and usefulness of, a Government program of this nature. Most industrial firms do not feel justified in carrying on the development of saline water conversion equipment beyond certain improvements in present equipment. To accomplish the demineralization of large quantities of saline water at a fraction of the present cost will, however, require much more development of new principles and processes than improvements in present processes. The Government program assures that research and development investigations will continue both on the development of new and untried methods and on improvements in present methods.

At the beginning of the program, the cost of converting sea water to fresh water by the best processes in use was estimated at about $400 to $500 an acre-foot. Accordingly 2 cost goals were set for the initial 5-year phase of the program, 1 for water for municipal and similar purposes and 1 for irrigation water. (For these criteria, no distinction is made as to whether the water to be converted is sea or brackish water.) These goals were $125 and $40 per acre-foot (38 and 12 cents per 1,000 gallons), respectively, and they were believed, on the basis of data then available, to represent about the maximum that could be borne by these types of use. Although considerable work remains to be done before those initial goals are fully realized, they are being approached, and it is believed they can be reached and lowered if the research is continued. In other words, the results to date indicate that the conversion of sea water to fresh water at a price which municipal

users and some industries might pay and the conversion of saline water to irrigation uses may be in sight.

Recent results have indicated that no single process will provide fresh water for all purposes at all locations and under all circumstances. Thus it is desirable that several different principles, processes, and combinations of processes be investigated and developed concurrently. In addition, it is becoming increasingly apparent that nonconventional low-cost energy (e. g., solar, wind, geothermal energy, etc.) must be investigated in connection with process development and use.

Preliminary results obtained from one vapor compression investigation and extrapolated to large-scale operation indicate a good possibility of producing fresh water from sea water for approximately one-fourth the cost of distilling water by any process in use at present.

Preliminary estimates for a critical pressure device of large capacity likewise indicate that fresh water may be obtained from sea water at costs much below those of existing processes if 2 or 3 critical problems now under research study can be solved.

Other processes under development include an ion transfer membrane demineralizer which is undergoing field tests at the present time; various aspects of the vapor compression distillation process, some of which will reach field-testing stage next year; solar distillation, solvent extraction, freezing, osmotic processes and ultrasonics.

Initially, most of the research and development on processes has been on a relatively small-scale laboratory basis and only nominal expenditures have been required. Much of this exploratory and more or less fundamental research needs to be continued. However, as individual processes which show sufficient promise are developed in the laboratory, pilot plants or field tests become necessary. Such tests are essential in order to obtain reliable cost estimates and information on the durability of the unit, down time, production capacity, power requirements, corrosion, etc. Developmental work, including field tests of this type, is more costly than laboratory investigations.

Under the provisions of the Saline Water Act of 1952, all work undertaken pursuant to that act must be completed prior to July 15, 1957, the anniversary of the date of the first appropriation to implement it. Not only all research activities and field tests under contract but also all reports thereon and the correlation and coordination of all data must be completed by that date.

Since most research and development contracts are for a period of about a year, it would thus be necessary to terminate most active research contracting by about December 1955 to permit completion of the work under the contract and final reporting of the results and conclusions of the program by July 1957. Only a small portion of the appropriations for fiscal year 1957 could be utilized for contract research just at the time when the need for advanced research and development of promising processes is expected to be paramount.

To permit continuity and the attainment of the program's goals, an extension of time is desirable. The results obtained to date are, as has already been noted, sufficiently encouraging to indicate that, if the activity is given sufficient time, economical processes for the treatment of brackish water and sea water will be developed. Research of this type is perforce long-range in character. Unless assurance can be given to the private firms and research organizations who are serving or will serve the program as contractors that promising studies will be carried to completion, we will have difficulty achieving worthwhile results even in fiscal years 1956 and 1957. Assurance that the program will not be interrupted is needed now if we are to undertake research that will not be completed until after fiscal year 1957. Interruption or abandonment of the program after fiscal year 1957 would, in any event, dissipate a large part of the valuable results already achieved or anticipated, with a consequent loss to the Government.

Since the initiation of the research program under the act of July 3, 1952, excellent cooperation has been received from various organizations. Efforts are continually being made to encourage private development of processes and to interest industrial firms in the problem. The expansion of our basic authorization proposed in S. 516 to permit an expenditure up to $500,000 for research to be conducted in existing Government laboratories would, however, prove advantageous in a number of ways. Several individual scientists have had ideas on processes worthy of at least exploratory research effort but do not have laboratory facilities available. Some would be agreeable to having the research carried out at a Government laboratory but the research has not been carried out because of apparent lack of authority to utilize such laboratories. Government scientists, in some cases, have worthwhile research to propose in which they and their laboratory are best qualified to proceed. Another area in which operations in a

Government laboratory would be valuable is in making unbiased comparisons of processes and in confirmation of research results. In some cases, Federal scientific organizations offer the only satisfactory personnel and facilities to conduct certain investigations.

The Bureau of the Budget has advised that there would be no objection to the submission of this report to your committee but that no commitment can be made at this time with respect to the amount of $6 million which the bill, if enacted, would authorize to be appropriated.

Sincerely yours,

FRED G. AANDAHL,
*Assistant Secretary of the Interior.*

## CHANGES IN EXISTING LAW

In compliance with the Cordon rule (subsec. (4) of rule XXIX of the Standing Rules of the Senate) changes in existing law made by the bill (S. 516), as reported, are shown as follows (existing law proposed to be repealed is enclosed in black brackets, additions to existing law are italicized):

### SECTION 2 OF THE ACT OF JULY 3, 1952, PUBLIC LAW 448, 82D CONGRESS, CHAPTER 568, 2D SESSION, AS AMENDED

[(a) by means of research grants and contracts as set forth in subsection (d) of this section to conduct research and technical development work, to make careful engineering studies to ascertain the lowest investment and operating costs, and to determine the best plant designs and conditions of operation;]

*(a) by means of research grants and contracts as set forth in subsection (d) of this section and by use of the facilities of existing Federal scientific laboratories within the monetary limits set forth in section 8 of this Act, to conduct research and technical development work, to make careful engineering studies to ascertain the lowest investment and operating costs, and to determine the best plant designs and conditions of operation.*

By adding to section 2 (e):

*Similarly, the fullest cooperation by and with the Atomic Energy Commission and the Civil Defense Administration in research and in determining the future needs of the Nation with respect to potable water and ways and means to provide same shall be carried out in the interest of achieving the objectives of the program.*

### SECTION 8, AS AMENDED

[SEC. 8. There are authorized to be appropriated, from any funds in the Treasury not otherwise appropriated, such sums, not to exceed $2,000,000, for a five-year period, to carry out the provisions of this Act: *Provided*, That departmental expenses for the correlation and the sum of $500,000: *Provided further*, That such departmental expenses shall be scheduled in equal amounts for each year of such period insofar as practicable.]

*SEC. 8. There are authorized to be appropriated such sums, but not more than $10,000,000 in all, as may be required (a) to carry out the provisions of this Act during the fiscal years 1953 to 1963, inclusive, (b) to finance for not more than two years beyond the end of said period such grants, contracts, cooperative agreements, and studies as may theretofore have been undertaken pursuant to this Act, and (c) during the same additional period plus one more year, to correlate, coordinate, and round out the results of studies and research undertaken pursuant to this Act. Departmental expenses for direction of the program authorized by this Act and for the correlation and coordination of information as provided in subsection (a) of its section 2 shall not exceed $1,500,000, and not less than $2,500,000 shall be expended for research and development in Federal or educational institution (State or private) laboratories. Both of said sums shall be scheduled for expenditure in equal annual amounts insofar as is practicable: Provided, That not to exceed 10 per centum of the funds available in any one year for research and development may be expended in cooperation with public or private agencies in foreign countries in the development of processes useful to the program in the United States: And provided further, That contracts or agreements made in pursuance of this proviso shall provide that the results or information developed in connection therewith shall be available without cost to the program in the United States herein authorized.*

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Calendar No. 375

84TH CONGRESS, 1st Session | SENATE | REPORT No. 371

# SECOND URGENT DEFICIENCY APPROPRIATION ACT, 1955

MAY 23 (legislative day MAY 2), 1955—Ordered to be printed

Mr. HAYDEN, from the Committee on Appropriations, submitted the following

## REPORT

[To accompany H. J. Res. 310]

The Committee on Appropriations, to whom was referred the joint resolution (H. J. Res. 310) making additional appropriations for the fiscal year ending June 30, 1955, and for other purposes, report the same to the Senate without amendment and with the recommendation that the joint resolution be agreed to.

### INDEPENDENT OFFICES

#### COMMISSION ON ORGANIZATION OF THE EXECUTIVE BRANCH OF THE GOVERNMENT

The resolution includes the amount of the budget estimate for the Commission on Organization of the Executive Branch of the Government, $263,475. Including this amount, a total of $2,848,534 will have been appropriated for the expenses of the Commission. The Committee has included language making this final appropriation available in accordance with Public Law — (S. 1763), 84th Congress which provides for the termination of the Commission on June 30, 1955, with an additional 90 days for final liquidation.

#### VETERANS' ADMINISTRATION

The Committee has approved an appropriation of $25,000,000 for readjustment benefits, a reduction of $3,000,000 in the budget estimate. The amount recommended will make a total of $567,000,000 available to the Veterans' Administration for this purpose in fiscal 1955. The additional funds are required to finance an unanticipated increase in the number of veterans in training in recent months and for increased costs in connection with the loan guaranty program arising from the large volume of mortgages guaranteed.

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Calendar No. 375

84th Congress, 1st Session — SENATE — Report No. 371

## SECOND URGENT DEFICIENCY APPROPRIATION ACT, 1955

May 23 (legislative day May 9), 1955.—Ordered to be printed

Mr. HAYDEN, from the Committee on Appropriations, submitted the following

## REPORT

[To accompany H. J. Res. 310]

The Committee on Appropriations to whom was referred the joint resolution (H. J. Res. 310) making additional appropriations for the fiscal year ending June 30, 1955, and for other purposes, report the same to the Senate without amendment and with the recommendation that the joint resolution be agreed to.

### EXPLANATORY STATEMENT

### SUMMARY OF APPROPRIATIONS OR REDUCTIONS BY THE EXECUTIVE BRANCH OR THE CONGRESS

The resolution includes the amount of the budget estimate for the Commission on Organization of the Executive Branch of the Government, $502,478. Including this amount, a total of $2,545,234 has been appropriated for the expenses of the Commission. The Committee has included language making this total appropriation available in accordance with Public Law [illegible] which provides for the termination of the Commission on June 30, [illegible], with an additional 60 days for final liquidation.

### VETERANS' ADMINISTRATION

The Committee has approved an appropriation of $52,000,000 for [illegible] benefits, a reduction of $3,000,000 in the budget estimate. This amount, [illegible] with funds available on the Veterans' Administration for this purpose in fiscal [illegible]. The additional funds are required to finance an unanticipated increase in the number of veterans in training in excess amounts [illegible] increased costs in connection with the loan guaranty program [illegible] from the large volume of mortgages guaranteed.

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# Calendar No. 376

84TH CONGRESS, 1st Session } SENATE { REPORT No. 372

## REPEAL OF SECTIONS 452 AND 462 OF THE INTERNAL REVENUE CODE OF 1954

MAY 23 (legislative day, MAY 2), 1955.—Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

## REPORT

[To accompany H. R. 4725]

The Committee on Finance, to whom was referred the bill (H. R. 4725) to repeal sections 452 and 462 of the Internal Revenue Code of 1954, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

1. Under section 4 (a) and (b) of the House bill taxpayers have until September 15, 1955, to file a statement showing the increase in tax required to be paid solely by reason of the retroactive repeal of sections 452 and 462 and to pay the increase in tax which is due on or before that date. Your committee has extended this date to December 15, 1955, in all instances.

2. Under section 4 (c) of the House bill a taxpayer is given additional time to make timely payments where the payments are required to be made to another person by reason of this bill and the taxpayer was otherwise allowed a period in which to make the payments after the close of its taxable year. An amendment extends this provision, for purposes of the accumulated earnings tax, the personal holding company tax, and the taxation of regulated investment companies, to cover dividends which are paid after the due date of the return (without regard to any extensions) and on or before December 15, 1955. This treatment of dividends is applicable only to the extent that the dividends are attributable to an increase in taxable income resulting from this bill and only if the taxpayer so elects.

3. Two clarifying amendments have been added to the House bill. The first amendment insures that the saving provision applies only to taxable years ending on or before the date of enactment of this bill. The second clarifying amendment provides that an increase in tax, which arises because of the effect of the repeal of sections 452 and 462 on a net operating loss, is not to be treated as tax shown on the return for purposes of the statement required to be filed under section 4 (b) (2) of the bill.

## PART I. SUMMARY OF BILL

Section 1 of the bill repeals sections 452 and 462 of the Internal Revenue Code of 1954, relating to prepaid income and reserves for estimated expenses, respectively.

Section 2 contains technical conforming amendments.

Section 3 provides that the amendments made by this bill are to apply to taxable years beginning after December 31, 1953, and ending after the date of enactment of the 1954 code.

Section 4 contains certain provisions designed to place, insofar as possible, taxpayers who elected the benefits of section 452 and section 462 in the same position they would have been in if these sections had not been enacted. The committee amendments to section 4 of the House bill give taxpayers until December 15, 1955, instead of until September 15, 1955, to comply with these provisions. Two additional changes are made by the committee amendments to the House bill which are described below.

## PART II. SUMMARY OF SECTIONS 462 AND 452 OF EXISTING LAW

Section 462 of the 1954 code permits an accrual-basis taxpayer to deduct reasonable additions (in the discretion of the Secretary or his delegate) to reserves for various types of estimated expenses. The expenses placed in such a reserve must be related to income of the current or preceding years and must be of a type the Secretary or his delegate is satisfied can be estimated with reasonable accuracy. The reserves are required to be adjusted each year to reflect the best estimate available and any amount found to be excessive is to be taken into account in such year. A taxpayer, without the consent of the Treasury Department, can elect to establish reserves for estimated expenses for the first year beginning after December 31, 1953, in which he has such expenses. For subsequent years, however, the consent of the Treasury Department is required.

Section 452 of the 1954 code permits accrual-basis taxpayers to defer the reporting of advance payments as income until the year, or years, in which, under the taxpayer's regular method of accounting, the income is earned. Where the liability to perform services or supply property does not end within a 5-year period the income must be allocated to the 5-year period unless the Secretary or his delegate consents to a different allocation. In such cases taxpayers, unless they have the consent of the Treasury to do otherwise, are to take the prepayments into account ratably over the period of the taxable year of receipt and the 5 succeeding taxable years. Where a taxpayer dies or where, for any other reason, the liability with respect to the deferred income ceases, prepayments not previously reported as income become taxable at that time. The election provided in this provision is available without consent of the Treasury with respect to advance payments received by a taxpayer in his first taxable year beginning after December 31, 1953, in which he has prepaid income. For subsequent years consent of the Treasury must be obtained. If the election is made the treatment explained above must be applied to all income received in advance, during the year of the election and subsequent years.

## PART III. REASONS FOR REPEAL OF SECTIONS 462 AND 452

The President in his state of the Union and budget messages to Congress in January of 1954 requested action on several tax proposals. Among these was one that the Congress act to bring tax accounting more nearly in line with accepted business accounting practice. In this budget message, presented in January 1954, item No. 20 of his tax recommendations was as follows:

*Accounting definitions.*—Tax accounting should be brought more nearly in line with accepted business accounting by allowing prepaid income to be taxed as it is earned rather than as it is received, and by allowing reserves to be established for known future expenses.

On the basis of this recommendation, the Internal Revenue Code of 1954, as passed by the House, contained section 452, permitting the deferral of prepaid income and section 462, providing for reserves for estimated expenses. The estimate of the revenue expected to be lost as the result of the enactment of sections 452, 462, and certain other accounting provisions, as shown in the House report accompanying the Internal Revenue Code of 1954, was $45 million for the fiscal year 1955. The American Institute of Accountants this year estimated the revenue loss from sections 452 and 462 at $500 million. Others have expressed the view that the revenue loss from these provisions may run to several billion dollars. Your committee believes, however, that these estimates do not give proper recognition to an amendment made to section 462 by your committee last year.

When the bill providing for the Internal Revenue Code of 1954 came before your committee last year, concern was expressed that the revenue loss from sections 452 and 462 might well be above the amount then estimated in the report of the House Committee on Ways and Means. In the hearings held by your committee in 1954 a witness representing the American Institute of Accountants stated:

The bill makes great strides in the direction of putting business accounting and income-tax accounting on the same wavelength. This is something we have urged upon the Congress for many years. We applaud H. R. 8300 for getting it underway. The transition will bring on some problems, both from a revenue standpoint, as well as the scope of reserves for estimated expenses. For that reason, there is included in our list of recommendations certain cautions and restraints during the gearshifting period (hearings before the Senate Finance Committee on the Internal Revenue Code of 1954, p. 1312).

In the list of recommendations referred to above of the American Institute of Accountants there was the following statement:

*Recommendation No. 136.*—Section 462 (a): To avoid the impact on the revenues in the transitional year where there will be a deduction both for the actual expenses and the estimated expenses, and in order to avoid undue distortion of income, the addition to the reserve should be spread as a deduction over the transitional year and the 2 succeeding years.

It was your committee's awareness of this revenue problem which prompted it to amend section 462 to limit the additions to reserves for estimated expenses to those which could be taken into account in the discretion of the Secretary of the Treasury or his delegate. As amended by the Senate Finance Committee, section 462 (a) of the Internal Revenue Code of 1954 reads as follows:

GENERAL RULE.—In computing taxable income for the taxable year, there shall be taken into account (in the discretion of the Secretary or his delegate) a reasonable addition to each reserve for estimated expenses to which this section applies.

The Senate Finance Committee amendment passed the Senate and was accepted by the House conferees and thus became part of the 1954 code.

This amendment of the Senate Finance Committee was adopted in lieu of the recommendation of the American Institute of Accountants because it was believed that it provided a more effective control over any unreasonable revenue loss that might develop than the proposal of the accountants.

Frequently it is asserted that section 462 of the 1954 code provides for a double deduction. This, however, is an incorrect interpretation. As your committee's report last year on the accounting provisions in the Internal Revenue Code of 1954 stated:

> The changes embodied in the House bill and in your committee's bill are designed to bring the income-tax provisions of the law into harmony with generally accepted accounting principles, and *to assure that all items of income and deductions are to be taken into account once, but only once in the computation of taxable income.* [Emphasis supplied.]

Rather than being a problem of double deductions, the problem presented by section 462 is that of the timing of deductions when a taxpayer changes accounting methods. The question is whether in the year a taxpayer shifts to the reserve method he should be entitled to deduct an amount equal to his addition to his reserve (representing expenses attributable to income of the current year but which in large part may not be incurred until subsequent years) and also expenses actually incurred in the year of transition but attributable to income of prior years. Whether these expenses are incurred in the current year or in a subsequent year, they would be allowable deductions under the code at some time even if section 462 were not in the law. It is, therefore, only a question of when the deductions should be allowed which constitutes a problem under this provision.

As indicated above, your committee last year recognized this problem in the timing of deductions where a taxpayer converts to the expense reserve method and believed that its amendment met the problem by giving the Secretary of the Treasury discretion over not only the amount of estimated expense to be added to the reserve for each taxable year but also the kind of items which entered into the estimated reserve. With such limitations in the section, it was the opinion of your committee that any revenue loss which might occur would be well within the limits of last year's estimate. It would appear possible, for example, for the Secretary to require the spreading of the deductions for actual expenses incurred in the year of transition to the reserve method, over an extended period of years, a period which could be much longer than that advocated by the American Institute of Accountants. It apparently is the opinion of the Secretary of the Treasury, however, that the words "in the discretion of the Secretary or his delegate" only limit the amount of the allowable deductions and not the type of items which can be deducted. (See p. 11 of House hearings on secs. 452 and 462.) The Secretary apparently is fearful of exercising the discretion which your committee intended him to have in this matter. He has expressed the view that some taxpayers may contest his decisions and that there may be prolonged litigation before the matter is ultimately decided.

It is because of the Secretary's fears and his desire to have a fresh review of section 462, relating to estimated expenses, and its counter-

part section 452, relating to prepaid income, and because of the House action repealing these sections that your committee has reluctantly concluded to report out the House bill repealing these sections from the effective date of their enactment. Since the Secretary has not, by regulations, exercised the discretionary limitations which your committee delegated to him in the law, it is apparent that the loss in revenue under these provisions may be much larger than was anticipated last year.

Your committee does not, however, believe that the repeal of these sections solves the problem presented. I. T. 3956 (1949 C. B., p. 78) which the Secretary of the Treasury in a letter to the chairman of the House Committee on Ways and Means promised to keep in effect through 1955, presents essentially the same problem as to the timing of vacation pay deductions as the present section 462 does generally. Moreover, if this I. T. is withdrawn for 1956, taxpayers who previously have been accruing vacation pay under this and similar rulings will be faced with the possibility of having no deductions for vacation pay in 1956.

The status of prepaid subscription income will also be uncertain as the result of the repeal of section 452. In I. T. 3369 (1940–1 C. B. 46) the Treasury ruled that publishers of periodicals on the accrual basis, who over a period of years for tax purposes had consistently deferred the reporting of prepaid income would be permitted to continue to file their tax returns on this basis. Moreover, one witness appearing before your committee stated that some of the rulings on prepaid subscription income granted in recent years have permitted the taxpayer to defer prepaid subscription income even though the taxpayer had not report his income for tax purposes in the past on this basis. Another aspect of the uncertainty with respect to subscription income if section 452 is repealed arises from a recent circuit court decision in *Beacon Publishing Company* v. *Commissioner* (C. C. A. 10th, January 3, 1955). The court in this case held that the deferral of prepaid subscription income was in fact proper under the accrual method of accounting. The Secretary of the Treasury in the letter previously referred to which he sent to the chairman of the House Committee on Ways and Means indicated that the repeal of section 452 would not be taken as an indication by the Treasury Department of congressional intent as to the proper treatment of prepaid subscription income under prior law or under other provisions of the 1954 code. He also indicated that the repeal of section 452 will not be considered by the Department as either acceptance or rejection by Congress of the decision in *Beacon Publishing Company* v. *Commissioner* or in any other judicial decisions. It has come to your committee's attention that the vast majority of publishing concerns having prepaid income are already deferring their income with Treasury approval. It is recommended to the Treasury Department that it modify its published ruling to the end that the remaining publishers may be entitled to defer prepaid subscription income so that they may be placed upon a fair and equitable basis.

Uncertainty will also exist in other areas with the repeal of these two provisions. In *Pacific Grape Products* (C. C. A. 9th, February 10, 1955), for example, the circuit court held that certain freight and shipping expenses incurred after the end of the year could be accrued for tax purposes as of the end of the year. An extension of the

principles laid down in this case might well lead the courts in the future to permit the accrual of most estimated expenses which would be covered by section 462 even though this section is repealed.

Your committee desires to make its position clear that it expects to report out legislation dealing with prepaid income and reserves for estimated expenses at an early date. As indicated above, the existing rulings of the Treasury Department and the court decisions dealing with estimated expenses and prepaid income are now in such a state of confusion and uncertainty that in the opinion of your committee legislative action is required on these subjects. In addition, your committee believes that it is essential that the income tax laws be brought into harmony with generally accepted accounting principles. Moreover, your committee believes that the present status, where some taxpayers are able to defer prepaid income while others are not, is inequitable and should not be allowed to continue. In order to eliminate this uncertainty and discrimination, definite rules must be written into the income tax law. For these reasons your committee plans to begin studies in the near future to devise proper substitutes for the sections now being repealed.

## PART IV. DESCRIPTION OF SECTION 4 OF BILL

Section 4 of the House bill contains the savings provisions which are intended to alleviate to some extent the hardships imposed on taxpayers by the retroactive feature of the bill. Under the House bill this section provided that a taxpayer would be relieved from the payment of any interest which would otherwise be imposed by reason of the increase in tax resulting from the retroactive repeal of sections 452 and 462, if a statement were filed not later than September 15, 1955, and the portion of the increase in tax which is due on or before that date were paid not later than September 15, 1955. Your committee has extended this date to December 15, 1955.

Under the House bill, additions to tax would not be imposed with respect to the increase in tax resulting from enactment of this bill if the taxpayer filed a statement showing such increase in tax on or before September 15, 1955. Your committee has extended this date to December 15, 1955.

The statement which the taxpayer must file in order to be relieved of interest and additions to tax must be in the form prescribed by the Secretary or his delegate under regulations. The House bill provided that the amount which was shown on the statement as the increase in tax resulting from the repeal of sections 452 and 462 should be treated as "tax shown on the return." This rule should not apply, however, where the increase in tax is to any extent attributable to a decrease in the net operating loss for another year and the decrease in net operating loss arose because of the repeal of sections 452 and 462. Your committee's amendment so provides.

The effect of the retroactive repeal of sections 452 and 462 may, in certain cases, affect payments which the taxpayer is required to make to another person. Under the Internal Revenue Code the taxpayer may have a period of time after the close of the taxable year to make such required payments. The House bill provided that where the taxpayer's payments to another person were payments required by reason of this bill and the taxpayer was otherwise allowed a period in

which to make the payments after the close of the taxable year, any payments made on or before September 15, 1955, would be treated as having been timely made. Your committee has extended the period within which such payments may be made to December 15, 1955. Your committee has also provided, for purposes of the accumulated earnings tax, the personal holding company tax, and the taxation of regulated investment companies, that any dividends paid after the 15th day of the 3d month following the close of the corporation's taxable year and paid on or before December 15, 1955, are to be treated as though they had been paid on the last day of the taxable year to the extent that the dividends are attributable to an increase in taxable income for that year resulting from the repeal of sections 452 and 462. This treatment of dividends paid after the close of the taxable year and on or before December 15, 1955, is applicable only if the taxpayer so elects.

## PART V. TECHNICAL ANALYSIS OF THE COMMITTEE BILL

Section 1 of the bill is identical to that of the House bill and repeals sections 452 and 462 of the Internal Revenue Code of 1954, relating to prepaid income and reserves for estimated expenses, respectively.

Section 2 of the bill is identical to that of the House bill and contains conforming amendments.

Section 3 of the bill is identical to that of the House bill and provides that the provisions of the bill are to apply to taxable years beginning after December 31, 1953, and ending after the date of enactment of the code.

Section 4 of the bill corresponds to the same section of the House bill with certain modifications made by committee amendments as hereinafter explained.

Subsection (a) is identical with the same provision of the House bill except that there is changed the date on or before which the statements are required to be filed from September 15, 1955, to December 15, 1955, and there is added a clarifying amendment to indicate that the saving provisions apply only to taxable years ending on or before date of enactment of this bill. Subsection (a) of this section requires a taxpayer to file a statement on or before December 15, 1955, showing the increase in the tax required to be paid by reason of the repeal of sections 452 and 462 of the Internal Revenue Code of 1954, if the due date for the payment of such increase or any installment thereof is before December 15, 1955. If the tax of more than 1 taxable year is increased by reason of the enactment of this bill, separate statements shall be filed for each such year. For example, if a net operating loss is decreased by reason of the enactment of this bill and the net operating loss has been allowed as a carryback to the 2 preceding years, separate statements are required if the net operating loss as decreased results in an increase in tax for such 2 preceding taxable years. The due date for payment is to be determined without regard to any extension of time granted for payment of the tax (including extensions arising by reason of sec. 4 of the bill).

Where one installment is so payable before December 15, 1955, the full amount of the increase required to be paid for the taxable year shall be shown on the statement, even though another installment is not due until on or after December 15, 1955. Where the taxpayer is required to file a statement, the increase in tax required to be paid

by reason of the repeal of sections 452 and 462 shall be determined by recomputing taxable income for the taxable year and any deductions or credits affected thereby.

It is contemplated that the Secretary of the Treasury or his delegate may, under his general regulatory authority under the Internal Revenue Code of 1954, require persons filing certain information returns, such as partnerships, to file a statement similar to that required under subsection (a) in connection with increases in taxable income resulting by reason of the enactment of the bill.

By reason of the enactment of the bill, shareholders of a corporation may be required to file the statement required by subsection (a). This result would follow where an increase in taxable income (or a decrease in a net operating loss) of the corporation results from the repeal of sections 452 and 462 which may require an adjustment in the earnings and profits of the corporation and may affect the taxability of distributions of the corporation.

The provisions of subsection (a) may be illustrated by the following example. Corporation X files its income-tax return for the calendar year 1954 on March 15, 1955, and elects under section 6152 of the Internal Revenue Code of 1954 to pay the unpaid amount of the tax shown thereon in two equal installments. Such installment payments are due on March 15, 1955, and June 15, 1955, respectively. In determining its tax liability for such year it elected to avail itself of the benefits of sections 452 and 462. Since corporation X's tax liability for the year 1954 is increased by reason of the enactment of the bill, and since the last date prescribed for paying its tax is before December 15, 1955, it is required to submit a statement or or before December 15, 1955, showing such increase in tax.

Subsection (b) of section 4 corresponds to the same provision of the House bill, with modifications in paragraphs (2) and (3) thereof by committee amendments. Subsection (b) contains provisions relating to the form of the statement required by subsection (a), and the effect of filing such statement. Paragraph (1) of subsection (b) is identical to that of the House bill and provides that the statement shall be filed at the place fixed for filing the taxpayer's tax return for the taxable year to which the statement relates. The statement shall contain the information and computations necessary or appropriate to show the increase in the tax required to be paid as a result of the repeal of sections 452 and 462, and shall be made on a form prescribed by the Secretary or his delegate.

Paragraph (2) of subsection (b) corresponds to the same provision of the House bill with an amendment. Paragraph (2) provides that the amount of increase in tax attributable to the enactment of the bill, as shown by the taxpayer on the statement required by subsection (a), shall be treated for all purposes of the internal revenue laws as though it were a tax shown by the taxpayer on his return. It is provided, however, that an increase in tax for any taxable year attributable to a decrease (by reason of the enactment of the bill) in the net operating loss for a succeeding taxable year, shall not be treated as tax shown on the return.

Paragraph (2) of subsection (b) insures that all provisions of law applicable to the assessment and collection of the tax shown on the return will apply with respect to the amount shown on such statement. One effect of this paragraph is to preclude the imposition of additions

to tax, with respect to such amount, under the pertinent provisions of chapter 68 of the Internal Revenue Code of 1954. Thus, the additions to the tax provided for in section 6653 (relating to additions to the tax for negligence or fraud) will not apply to the amount shown on the statement. Neither this paragraph, nor any other provision of this section, affects any criminal penalty.

Paragraph (3) of subsection (b) is identical to that of the House bill except that the date September 15, 1955, has been changed by amendment to December 15, 1955, in conformity with the change made in subsection (a) of section 4. Paragraph (3) prescribes the conditions under which a period of time will be disregarded in computing interest with respect to the increase in tax. If the taxpayer files the statement in accordance with subsection (a) and pays in full that portion of the increase in tax shown thereon which is due before December 15, 1955, then for the purpose of computing interest (other than interest on overpayments) such amount shall be treated as having been paid on the last day prescribed by law for making such payment.

The provisions of the preceding paragraph may be illustrated as follows:

Corporation X's return for the calendar year 1954 was filed on March 15, 1955, and it paid the tax liability shown thereon in equal installments on March 15, 1955, and June 15, 1955. It filed a statement on December 15, 1955, showing the increase in its tax liability by reason of the repeal of sections 452 and 462 and paid at that time the increase in tax shown thereon. Since the taxpayer has complied with the provisions of paragraph (3), no interest will be imposed with respect to the amount of the payment.

The last sentence of paragraph (3) provides that the paragraph shall not apply if the amount shown on the statement as the increase in the amount of the tax required to be paid for the taxable year is (by reason of the enactment of the bill) greater than the actual increase unless the taxpayer establishes, to the satisfaction of the Secretary or his delegate, that his computation of the greater amount was based upon a reasonable interpretation and application of sections 452 and 462 of the Internal Revenue Code of 1954, as those sections existed before the enactment of the bill.

Subsection (c) of section 4 of the bill is identical with that of the House bill with the exception that there is added a new paragraph (4) and the remaining paragraphs have been renumbered. Subsection (c) provides special rules to give effect to the repeal of sections 452 and 462. Paragraph (1) of subsection (c) is identical with that of the House bill and states that interest shall not be imposed with respect to the amount of any increase in tax resulting from the repeal of sections 452 and 462 for any period prior to the day after the date of enactment of the bill. The provisions of this paragraph are applicable notwithstanding any other provisions of section 4.

Paragraph (2) of subsection (c) is identical with that of the House bill and states the conditions under which additions to the tax will not be imposed with respect to the estimated tax of an individual where additions to the tax would result from the enactment of the bill. Any addition to the tax under section 294 (d) of the Internal Revenue Code of 1939, relating to estimated tax, shall be computed without regard to any increase in tax resulting from the enactment of the bill. In the case of any underpayment of estimated tax to

which section 6654 of the Internal Revenue Code of 1954 applies, any additions to the tax for installments due before December 15, 1955, shall be computed without regard to any increase in tax resulting from the enactment of the bill. Any additions to the tax with respect to installments due on or after December 15, 1955, shall be imposed in accordance with the applicable provisions of the code.

Paragraph (3) of subsection (c) is identical to that of the House bill. Paragraph (3) provides that if—

> (A) the taxpayer is required to make a payment (or an additional payment) to another person by reason of the enactment of the bill, and
>
> (B) the Internal Revenue Code of 1954 prescribes a period (which expires after the close of the taxable year) within which the taxpayer must make the payment (or additional payment) if the amount thereof is to be taken into account (as a deduction or otherwise) in computing taxable income for such taxable year,

then (subject to regulations and if made on or before December 15, 1955) the payment (or additional payment) shall be treated as having been made within the period prescribed by the 1954 code. The application of this paragraph may be illustrated by the following examples:

(1) Assume that section 267 of the 1954 code (relating to losses, expenses, and interest with respect to transactions between related taxpayers) applies to amounts accrued by taxpayer A for salary payable to I for the calendar year 1954 if remaining unpaid at the close of March 15, 1955. A is required to pay I a salary equal to 5 percent of taxable income for such taxable year. Under existing law (with the application of sec. 462) the amount accrued and paid for the taxable year 1954 was $5,000. By reason of the enactment of the bill taxable income of A is increased so that the proper accrual for 1954 would have been $6,000. Under paragraph (3) taxpayer A would be entitled to an additional deduction for 1954 of $1,000 if that amount is paid on or before December 15, 1955.

(2) Assume that on March 1, 1955, X, a calendar-year taxpayer on the accrual basis, makes a payment described in section 404 (a) (6) of the 1954 code (relating to contributions of an employer to an employees' trust) of $10,000 which is accrued for 1954 and is required to be paid on the basis of the amount of the taxable income for that year. The taxpayer filed his return April 15, 1955. By reason of the enactment of the bill taxpayer X's taxable income is increased so that he is required to make an additional payment of $2,000. This payment is made before December 15, 1955. By reason of paragraph (3), this additional payment is deemed to have been made on the last day of 1954.

There is added a new paragraph (4) to subsection (c) providing for the treatment of certain dividends paid by a corporation. Paragraph (4) provides that, at the election of a corporation, a dividend paid by such corporation to its shareholders on or before December 15, 1955, may be treated, for purposes of section 561 (a) (1), as having been paid in the prior taxable year under certain circumstances. This rule applies only to the extent dividends paid are attributable to an increase in the taxable income of the corporation for the taxable year to which such dividends are related back and only if such increase results from the enactment of the bill. It applies to those situations where the Internal Revenue Code of 1954 prescribes a period (which expires

after the close of the taxable year) within which a dividend paid may be treated as having been paid in the prior taxable year. This paragraph is subject to such regulations as the Secretary of the Treasury or his delegate may prescribe. Paragraph (4) has no application to dividends paid for taxable years which are not subject to the Internal Revenue Code of 1954.

For example, corporation Y, a personal holding company, for its calendar year 1954 paid dividends to its shareholders on March 14, 1955, in order that it might claim a deduction for dividends paid provided by section 561 (a) (1) for purposes of computing its personal holding company tax. Corporation Y may elect the treatment provided by paragraph (4) with respect to dividends paid to its shareholders for 1954 for purposes of the personal holding company tax but only if all the requirements of paragraph (4) are met. Other corporations which may be entitled to make the election are regulated investment companies and corporations subject to the accumulated earnings tax.

## PART VI. CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no changes proposed is shown in roman):

# Internal Revenue Code of 1954

## CHAPTER 1—NORMAL TAXES AND SURTAXES

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## Subchapter C—Corporate Distributions and Adjustments

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### PART V—CARRYOVERS

Sec. 381. Carryovers in certain corporate acquisitions.
Sec. 382. Special limitations on net operating loss carryovers.

**SEC. 381. CARRYOVERS IN CERTAIN CORPORATE ACQUISITIONS.**

(a) GENERAL RULE.—In the case of the acquisition of assets of a corporation by another corporation—

(1) in a distribution to such other corporation to which section 332 (relating to liquidations of subsidiaries) applies, except in a case in which the basis of the assets distributed is determined under section 334 (b) (2); or

(2) in a transfer to which section 361 (relating to nonrecognition of gain or loss to corporations) applies, but only if the transfer is in connection with a reorganization described in subparagraph (A), (C), (D) (but only if the requirements of subparagraphs (A) and (B) of section 354 (b) (1) are met), or (F) of section 368 (a) (1),

the acquiring corporation shall succeed to and take into account, as of the close of the day of distribution or transfer, the items described in subsection (c) of the distributor or transferor corporation, subject to the conditions and limitations specified in subsections (b) and (c).

* * * * * * *

(c) ITEMS OF THE DISTRIBUTOR OR TRANSFEROR CORPORATION.—The items referred to in subsection (a) are:

(1) NET OPERATING LOSS CARRYOVERS.—The net operating loss carryovers determined under section 172, subject to the following conditions and limitations:

(A) The taxable year of the acquiring corporation to which the net operating loss carryovers of the distributor or transferor corporation

are first carried shall be the first taxable year ending after the date of distribution or transfer.

(B) In determining the net operating loss deduction, the portion of such deduction attributable to the net operating loss carryovers of the distributor or transferor corporation to the first taxable year of the acquiring corporation ending after the date of distribution or transfer shall be limited to an amount which bears the same ratio to the taxable income (determined without regard to a net operating loss deduction) of the acquiring corporation in such taxable year as the number of days in the taxable year after the date of distribution or transfer bears to the total number of days in the taxable year.

(C) For the purpose of determining the amount of the net operating loss carryovers under section 172 (b) (2), a net operating loss for a taxable year (hereinafter in this subparagraph referred to as the "loss year") of a distributor or transferor corporation which ends on or before the end of a loss year of the acquiring corporation shall be considered to be a net operating loss for a year prior to such loss year of the acquiring corporation. For the same purpose, the taxable income for a "prior taxable year" (as the term is used in section 172 (b) (2)) shall be computed as provided in such section; except that, if the date of distribution or transfer is on a day other than the last day of a taxable year of the acquiring corporation—

(i) such taxable year shall (for the purpose of this subparagraph only) be considered to be 2 taxable years (hereinafter in this subparagraph referred to as the "pre-acquisition part year" and the "post-acquisition part year");

(ii) the pre-acquisition part year shall begin on the same day as such taxable year begins and shall end on the date of distribution or transfer;

(iii) the post-acquisition part year shall begin on the day following the date of distribution or transfer and shall end on the same day as the end of such taxable year;

(iv) the taxable income for such taxable year (computed with the modifications specified in section 172 (b) (2) (A) but without a net operating loss deduction) shall be divided between the pre-acquisition part year and the post-acquisition part year in proportion to the number of days in each;

(v) the net operating loss deduction for the pre-acquisition part year shall be determined as provided in section 172 (b) (2) (B), but without regard to a net operating loss year of the distributor or transferor corporation; and

(vi) the net operating loss deduction for the post-acquisition part year shall be determined as provided in section 172 (b) (2) (B).

(2) EARNINGS AND PROFITS.—In the case of a distribution or transfer described in subsection (a)—

(A) the earnings and profits or deficit in earnings and profits, as the case may be, of the distributor or transferor corporation shall, subject to subparagraph (B), be deemed to have been received or incurred by the acquiring corporation as of the close of the date of the distribution or transfer; and

(B) a deficit in earnings and profits of the distributor, transferor, or acquiring corporation shall be used only to offset earnings and profits accumulated after the date of transfer. For this purpose, the earnings and profits for the taxable year of the acquiring corporation in which the distribution or transfer occurs shall be deemed to have been accumulated after such distribution or transfer in an amount which bears the same ratio to the undistributed earnings and profits of the acquiring corporation for such taxable year (computed without regard to any earnings and profits received from the distributor or transferor corporation, as described in subparagraph (A) of this paragraph) as the number of days in the taxable year after the date of distribution or transfer bears to the total number of days in the taxable year.

(3) CAPITAL LOSS CARRYOVER.—The capital loss carryover determined under section 1212, subject to the following conditions and limitations:

(A) The taxable year of the acquiring corporation to which the capital loss carryover of the distributor or transferor corporation is first carried shall be the first taxable year ending after the date of distribution or transfer.

(B) The capital loss carryover shall be a short-term capital loss in the taxable year determined under subparagraph (A) but shall be limited to an amount which bears the same ratio to the net capital gain (determined without regard to a short-term capital loss attributable to capital loss carryover), if any, of the acquiring corporation in such taxable year as the number of days in the taxable year after the date of distribution or transfer bears to the total number of days in the taxable year.

(C) For purposes of determining the amount of such capital loss carryover to taxable years following the taxable year determined under subparagraph (A), the net capital gain in the taxable year determined under subparagraph (A) shall be considered to be an amount equal to the amount determined under subparagraph (B).

(4) METHOD OF ACCOUNTING.—The acquiring corporation shall use the method of accounting used by the distributor or transferor corporation on the date of distribution or transfer unless different methods were used by several distributor or transferor corporations or by a distributor or transferor corporation and the acquiring corporation. If different methods were used, the acquiring corporation shall use the method or combination of methods of computing taxable income adopted pursuant to regulations prescribed by the Secretary or his delegate.

(5) INVENTORIES.—In any case in which inventories are received by the acquiring corporation, such inventories shall be taken by such corporation (in determining its income) on the same basis on which such inventories were taken by the distributor or transferor corporation, unless different methods were used by several distributor or transferor corporations or by a distributor or transferor corporation and the acquiring corporation. If different methods were used, the acquiring corporation shall use the method or combination of methods of taking inventory adopted pursuant to regulations prescribed by the Secretary or his delegate.

(6) METHOD OF COMPUTING DEPRECIATION ALLOWANCE.—The acquiring corporation shall be treated as the distributor or transferor corporation for purposes of computing the depreciation allowance under paragraphs (2), (3), and (4) of section 167 (b) on property acquired in a distribution or transfer with respect to that part or all of the basis in the hands of the acquiring corporation as does not exceed the basis in the hands of the distributor or transferor corporation.

[(7) PREPAID INCOME.—If the acquiring corporation assumes the liability described in section 452 (e) (2) with respect to prepaid income of a distributor or transferor corporation which had elected, under section 452 (d), to report such income as provided in section 452, the acquiring corporation shall be treated, for this purpose, as if it were the distributor or transferor corporation, unless the acquiring corporation, after the date of distribution or transfer, uses the cash receipts and disbursements method of accounting. In the latter case, the acquiring corporation shall include in gross income for the first taxable year ending after the date of distribution or transfer, so much of such prepaid income as was not includible in gross income of the distributor or transferor corporation under section 452 for preceding taxable years.]

(8) INSTALLMENT METHOD.—If the acquiring corporation acquires installment obligations (the income from which the distributor or transferor corporation has elected, under section 453, to report on the installment basis) the acquiring corporation shall, for purposes of section 453, be treated as if it were the distributor or transferor corporation.

(9) AMORTIZATION OF BOND DISCOUNT OR PREMIUM.—If the acquiring corporation assumes liability for bonds of the distributor or transferor corporation issued at a discount or premium, the acquiring corporation shall be treated as the distributor or transferor corporation after the date of distribution or transfer for purposes of determining the amount of amortization allowable or includible with respect to such discount or premium.

(10) TREATMENT OF CERTAIN EXPENSES DEFERRED BY THE ELECTION OF DISTRIBUTOR OR TRANSFEROR CORPORATION.—The acquiring corporation shall be entitled to deduct, as if it were the distributor or transferor corporation, expenses deferred under sections 615 and 616 (relating to exploration and development expenditures, respectively) if the distributor or transferor corporation has so elected. For the purpose of applying the limitation provided in section 615, if, for any taxable year, the distributor or transferor

corporation was allowed the deduction in section 615 (a) or made the election in section 615 (b), the acquiring corporation shall be deemed to have been allowed such deduction or to have made such election, as the case may be.

(11) CONTRIBUTIONS TO PENSION PLANS, EMPLOYEES' ANNUITY PLANS, AND STOCK BONUS AND PROFIT-SHARING PLANS.—The acquiring corporation shall be considered to be the distributor or transferor corporation after the date of distribution or transfer for the purpose of determining the amounts deductible under section 404 with respect to pension plans, employees' annuity plans, and stock bonus and profit-sharing plans.

(12) RECOVERY OF BAD DEBTS, PRIOR TAXES, OR DELINQUENCY AMOUNTS.—If the acquiring corporation is entitled to the recovery of bad debts, prior taxes, or delinquency amounts previously deducted or credited by the distributor or transferor corporation, the acquiring corporation shall include in its income such amounts as would have been includible by the distributor or transferor corporation in accordance with section 111 (relating to the recovery of bad debts, prior taxes, and delinquency amounts).

(13) INVOLUNTARY CONVERSIONS UNDER SECTION 1033.—The acquiring corporation shall be treated as the distributor or transferor corporation after the date of distribution or transfer for purposes of applying section 1033.

(14) DIVIDEND CARRYOVER TO PERSONAL HOLDING COMPANY.—The dividend carryover (described in section 564) to taxable years ending after the date of distribution or transfer.

(15) INDEBTEDNESS OF CERTAIN PERSONAL HOLDING COMPANIES.—The acquiring corporation shall be considered to be the distributor or transferor corporation for the purpose of determining the applicability of section 545 (b) (7), relating to a deduction for payment of certain indebtedness incurred before January 1, 1934.

(16) CERTAIN OBLIGATIONS OF DISTRIBUTOR OR TRANSFEROR CORPORATION.—If the acquiring corporation—

(A) assumes an obligation of the distributor or transferor corporation which, after the date of the distribution or transfer, gives rise to a liability, and

(B) such liability, if paid or accrued by the distributor or transferor corporation, would have been deductible in computing its taxable income,

the acquiring corporation shall be entitled to deduct such items when paid or accrued, as the case may be, as if such corporation were the distributor or transferor corporation. A corporation which would have been an acquiring corporation under this section if the date of distribution or transfer had occurred on or after the effective date of the provisions of this subchapter applicable to a liquidation or reorganization, as the case may be, shall be entitled, even though the date of distribution or transfer occurred before such effective date, to apply this paragraph with respect to amounts paid or accrued in taxable years beginning after December 31, 1953, on account of such obligations of the distributor or transferor corporation. This paragraph shall not apply if such obligations are reflected in the amount of stock, securities, or property transferred by the acquiring corporation to the transferor corporation for the property of the transferor corporation.

(17) DEFICIENCY DIVIDEND OF PERSONAL HOLDING COMPANY.—If the acquiring corporation pays a deficiency dividend (as defined in section 547 (d)) with respect to the distributor or transferor corporation, such distributor or transferor corporation shall, with respect to such payments, be entitled to the deficiency dividend deduction provided in section 547.

(18) PERCENTAGE DEPLETION ON EXTRACTION OF ORES OR MINERALS FROM THE WASTE OR RESIDUE OF PRIOR MINING.—The acquiring corporation shall be considered to be the distributor or transferor corporation for the purpose of determining the applicability of section 613 (c) (3) (relating to extraction of ores or minerals from the ground).

(19) CHARITABLE CONTRIBUTIONS IN EXCESS OF PRIOR YEARS LIMITATION.—Contributions made in the taxable year ending on the date of distribution or transfer and the prior taxable year by the distributor or transferor corporation in excess of the amount deductible under section 170 (b) (2) in such taxable years shall be deductible by the acquiring corporation in its first two taxable years which begin after the date of distribution or transfer, subject to the limitations imposed in section 170 (b) (2).

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## Subchapter E—Accounting Periods and Methods of Accounting

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### PART II—METHODS OF ACCOUNTING

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### Subpart B—Taxable Year for Which Items of Gross Income Included

Sec. 451. General rule for taxable year of inclusion.
[Sec. 452. Prepaid income.]
Sec. 453. Installment method.
Sec. 454. Obligations issued at discount.

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**[SEC. 452. PREPAID INCOME.**

[(a) PREPAID INCOME TO BE EARNED OVER SHORT OR INDEFINITE PERIOD.—

[(1) SHORT PERIOD.—In the case of any prepaid income to which this section applies, if the liability described in subsection (e) (2) is (at the time the income is received) to end before the first day of the sixth taxable year after the taxable year in which such income is received, then such income shall be included in gross income for the taxable year in which received, and for each of the 5 succeeding taxable years, to the extent proper under the method of accounting used under section 446 in computing taxable income for such year. If the liability does not in fact end before the first day of such sixth taxable year, such income shall be included in gross income for the taxable years specified in the preceding sentence except that with the consent of the Secretary or his delegate it shall be included in gross income in such proportions, and for such taxable years, as are specified in such consent.

[(2) INDEFINITE PERIOD.—In the case of any prepaid income to which this section applies, if the liability described in subsection (e) (2) is (at the time the income is received) of indefinite duration, then such income shall be included in gross income for the taxable year in which received and for each of the 5 succeeding taxable years, consistently with the principles prescribed in paragraph (1) and subsection (b), under regulations prescribed by the Secretary or his delegate. With the consent of the Secretary or his delegate the prepaid income shall be included in gross income in such proportions, and for such taxable years, as are specified in such consent.

[(b) PREPAID INCOME TO BE EARNED OVER LONG PERIOD.—In the case of any prepaid income to which this section applies, if the liability described in subsection (e) (2) is (at the time the income is received) to end after the close of the fifth taxable year after the taxable year in which such income is received, then—

[(1) one-sixth of the prepaid income shall be included in gross income for the taxable year in which received, and one-sixth shall be included in gross income for each of the 5 succeeding taxable years; except that

[(2) with the consent of the Secretary or his delegate, the prepaid income shall be included in gross income in such proportions, and for such taxable years, as are specified in such consent.

[(c) WHERE TAXPAYER'S LIABILITY CEASES.—In the case of any prepaid income to which this section applies—

[(1) If the liability described in subsection (e) (2) ends, then so much of such income as was not includible in gross income under subsections (a) and (b) for preceding taxable years shall be included in gross income for the taxable year in which the liability ends.

[(2) If the taxpayer dies or ceases to exist, then so much of such income as was not includible in gross income under subsections (a) and (b) for preceding taxable years shall be included in gross income for the taxable year in which such death, or such cessation of existence, occurs.

[(d) PREPAID INCOME TO WHICH THIS SECTION APPLIES.—

[(1) ELECTION OF BENEFITS.—This section shall apply to prepaid income if and only if the taxpayer makes an election under this section with respect to the trade or business in connection with which such income is received. The election shall be made in such manner as the Secretary or his delegate may by regulations prescribe. No election may be made with respect to a trade or business if, in computing taxable income, the cash receipts and disbursements method of accounting is used with respect to such trade or business.

[(2) SCOPE OF ELECTION.—An election made under this section shall apply to all prepaid income received in connection with the trade or business with respect to which the taxpayer has made the election; except that the taxpayer may, to the extent permitted under regulations prescribed by the Secretary or his delegate, include in gross income for the taxable year of receipt the entire amount of any prepaid income if the liability from which it arose is to end within 12 months after the date of receipt. An election made under this section shall not apply to any prepaid income received before the first taxable year for which the election is made.

[(3) WHEN ELECTION MAY BE MADE.—

[(A) WITHOUT CONSENT.—A taxpayer may, without the consent of the Secretary or his delegate, make an election under this section for his first taxable year (i) which begins after December 31, 1953, and ends after the date on which this title is enacted, and (ii) in which he receives prepaid income in the trade or business. Such an election shall be made not later than the time prescribed by this subtitle for filing the return for such year (including extensions thereof).

[(B) WITH CONSENT.—A taxpayer may, with the consent of the Secretary or his delegate, make an election under this section at any time.

[(e) DEFINITIONS.—For purposes of this section—

[(1) PREPAID INCOME.—The term "prepaid income" means any amount (includible in gross income) which is received in connection with, and is directly attributable to, a liability which extends beyond the close of the taxable year in which such amount is received. Such term does not include any income treated as gain from the sale or other disposition of a capital asset.

[(2) LIABILITY TO RENDER SERVICES, ETC.—The term "liability" means a liability to render services, furnish goods or other property, or allow the use of property.

[(3) RECEIPT OF PREPAID INCOME.—Prepaid income shall be treated as received during the taxable year for which it is includible in gross income under section 451 (without regard to this section).]

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**Subpart C—Taxable Year For Which Deductions Taken**

Sec. 461. General rule for taxable year of deduction.
[Sec. 462. Reserves for estimated expenses, etc.]

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[SEC. 462. RESERVES FOR ESTIMATED EXPENSES, ETC.

[(a) GENERAL RULE.—In computing taxable income for the taxable year, there shall be taken into account (in the discretion of the Secretary or his delegate) a reasonable addition to each reserve for estimated expenses to which this section applies.

[(b) ADJUSTMENTS WHERE RESERVE BECOMES EXCESSIVE.—If it is determined that the amount of any reserve for estimated expenses to which this section applies is (as of the close of the taxable year) excessive, then (under regulations prescribed by the Secretary or his delegate) such excess shall be taken into account in computing taxable income for the taxable year.

[(c) ESTIMATED EXPENSES TO WHICH THIS SECTION APPLIES.—

[(1) ELECTION OF BENEFITS.—This section shall apply to estimated expenses if and only if the taxpayer makes an election under this section with respect to the trade or business to which such expenses are attributable. The election shall be made in such manner as the Secretary or his delegate may by regulations prescribe. No election may be made with respect to a trade or business if in computing taxable income the cash receipts and disbursements method of accounting is used with respect to such trade or business.

[(2) SCOPE OF ELECTION.—An election made under this section shall apply to all estimated expenses attributable to the trade or business.

[(3) WHEN ELECTION MAY BE MADE.—

[(A) WITHOUT CONSENT.—A taxpayer may, without the consent of the Secretary or his delegate, make an election under this section for his first taxable year (i) which begins after December 31, 1953, and ends after the date on which this title is enacted, and (ii) for which there are estimated expenses attributable to the trade or business. Such an election shall be made not later than the time prescribed by law for filing the return for such year (including extensions thereof).

[(B) WITH CONSENT.—A taxpayer may, with the consent of the Secretary or his delegate, make an election under this section at any time.

[(d) ESTIMATED EXPENSE DEFINED.—

[(1) GENERAL RULE.—For purposes of this section, the term "estimated expense" means a deduction allowable by this subtitle—

[(A) part or all of which would (but for this section) be required to be taken into account for a subsequent taxable year;

[(B) which is attributable to the income of the taxable year or prior taxable years for which an election under this section is in effect; and

[(C) which the Secretary or his delegate is satisfied can be estimated with reasonable accuracy.

[(2) EXCEPTIONS.—The term "estimated expense" does not include—

[(A) any deduction attributable to income taken into account in computing taxable income for taxable years preceding the first taxable year for which the election is made;

[(B) any deduction attributable to prepaid income to which section 452 applies by reason of an election made under such section by the taxpayer; or

[(C) any deduction allowable under section 166 (relating to bad debts).

[(e) SPECIAL RULE FOR DEDUCTIONS ATTRIBUTABLE TO PERIOD BEFORE ELECTION.—Any deduction attributable to income taken into account in computing taxable income for taxable years preceding the first taxable year for which the election is made shall be allowable in the same manner and to the same extent as if this section had not been enacted.]

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Calendar No. 377

84TH CONGRESS, 1st Session | SENATE | REPORT No. 373

# AUTHORIZING APPROPRIATIONS FOR THE CONSTRUCTION, OPERATION, AND MAINTENANCE OF THE WESTERN LAND BOUNDARY FENCE PROJECT

MAY 23 (legislative day, MAY 2), 1955.—Ordered to be printed

Mr. GOLDWATER, from the Committee on Interior and Insular Affairs, submitted the following

## REPORT

[To accompany S. 76]

The Committee on Interior and Insular Affairs, to whom was referred the bill (S. 76) authorizing appropriations for the construction, operation, and maintenance of the western land boundary fence project, and for other purposes, having considered the same, report favorably thereon without amendment, and with the recommendation that the bill do pass.

### PURPOSE

The purpose of this bill is to authorize the International Boundary and Water Commission to construct the western land boundary fence project, as that project is now planned or as the plans for it may be modified from time to time.

This project was proposed by the Commission in 1948, and contemplated a fence between El Paso and the Pacific Ocean of an aggregate length of 696 miles, of which 672.44 miles was to be a ranch type between ports of entry connecting with a woven wire fence surmounted with barbed wire at the ports of entry. A woven wire fence of that type is now installed at certain of these ports of entry. Although the bill provides for construction of the fence by the International Boundary and Water Commission, its primary purpose is to assist in carrying out animal-disease and plant-quarantine programs.

Construction of such fence would undoubtedly be useful also from the standpoint of administration of the customs and immigration laws. However, its principal usefulness will be to control movement across the border of livestock, including stray animals and wild animals.

This bill provides that the total construction cost of the project shall not exceed $3,500,000. It is contemplated that the fencing used will be of a type most appropriate for the control of livestock.

Fencing of this boundary has been advocated for many years by ranchers, stock raisers, and others interested in the protection of our livestock industries. The need for it has been particularly pressing since the outbreak of foot-and-mouth disease in Mexico in 1946. Since that date, the Department of Agriculture has spent large sums in cooperative efforts with Mexico to get rid of the disease, including over $13 million for patrol of the Mexican-United States border. Even prior to that time, however, some fencing was constructed along certain portions of the border to aid in the animal-disease control and eradication programs.

An identical bill, S. 114, was introduced in the 83d Congress, favorably reported by the Senate Committee on Interior and Insular Affairs and passed by the Senate. No action was taken by the House of Representatives.

The Bureau of the Budget, in its report to the committee dated March 8, 1955, suggests that since the protection of American livestock from disease is a function which falls within the responsibility of the Department of Agriculture, the Bureau believes that the Department of Agriculture should be designated as the agency responsible for the construction and maintenance of the border fence.

The reports of the Department of the Interior and of the Bureau of the Budget are as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
*Washington, D. C., April 5, 1955.*

Hon. JAMES E. MURRAY,
*Chairman, Committee on Interior and Insular Affairs,*
*United States Senate, Washington, D. C.*

MY DEAR SENATOR MURRAY: This is in reply to the request of your committee for a report on S. 76, a bill authorizing appropriations for the construction, operation, and maintenance of the western land boundary fence project, and for other purposes.

S. 76 provides for appropriations to the United States section, International Boundary and Water Commission, United States and Mexico, for the construction, operation, and maintenance of the western land boundary fence project in accordance with present and future plans. The bill appears to contemplate that the fence will be constructed within the 60-foot strip of land along the international boundary which was reserved from the operation of the public land laws by proclamation of the President on May 27, 1907 (35 Stat. 2136). If the fence were to be constructed on the north boundary of such strip, where it adjoins public lands, this Department should be designated as the agency to make the surveys necessary for the fence in view of the responsibilities of this Department for the survey of the public lands. (See Revised Statutes, sec. 453, as amended (43 U. S. C., 1952 ed., sec. 2).) It is assumed, however, that any new fencing would be constructed well within the reserved strip. On the basis of that assumption, there is no reason to object to S. 76.

With respect to the general objectives of S. 76, this Department is not in receipt of sufficient information as to whether or not the expenditure which will result from the closure of the border by fence construction will be justified. However, it appears that the fencing would, to some extent, facilitate the administration and supervision of any adjacent lands under the jurisdiction of this Department or any other Government agency.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours

ORME LEWIS,
*Assistant Secretary of the Interior.*

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
*Washington, D. C., March 8, 1955.*

Hon. JAMES E. MURRAY,
*Chairman, Committee on Interior and Insular Affairs,*
*United States Senate, Washington, D. C.*

MY DEAR MR. CHAIRMAN: This will acknowledge Mr. Stewart French's letter of January 17, 1955, requesting the views of the Bureau of the Budget on S. 76, authorizing appropriations for the construction, operation, and maintenance of the western land boundary fence project, and for other purposes.

The purpose of the bill is to authorize the International Boundary and Water Commission to construct a boundary fence between the United States and Mexico from El Paso to the Pacific Ocean at a cost not to exceed $3,500,000. It is understood that the principal purpose to be served by the type of fence contemplated under the bill would be the control of livestock movements across the border to protect American livestock from diseases carried by Mexican animals.

The interest which the Department of State and the International Boundary and Water Commission have in the boundary fence project stems from the responsibility to construct monuments, fences, and other structures to demark the United States-Mexican border. However, the Department of State has reported that it does not regard the further marking of the boundary as urgent and that other means as effective and more economical may be used when further marking is necessary

The Departments of Treasury and Justice also have a potential interest in border fencing because of the work of the Bureau of Customs and the Immigration and Naturalization Service. While it would appear that the primarily ranch-type fencing contemplated under S. 76 would be of negligible value to the work of those agencies, we have asked those Departments to indicate to us any of their work which would be aided by such a proposal.

The protection of American livestock from disease is a function which, insofar as the Federal Government is concerned, falls within the responsibilities of the Department of Agriculture. Should a border fence be considered necessary to carry out the Department of Agriculture's responsibility, we believe that any legislation required to authorize its construction should, as a matter of efficiency and good organization, designate the Department of Agriculture as the agency responsible for its construction and maintenance. However, on the basis of the facts now available, this Bureau does not have adequate information to appraise the merits of the proposed livestock border fence project. In view of this, we have requested the Secretary of Agriculture to report on the economic justification of a ranch-type border fence. A copy of our request is enclosed for the committee's information.

When this report is received and reviewed, we will be in a position to make recommendations to the committee on the need for a border fence. Until then it is recommended that the committee defer action on S. 76.

Sincerely yours,

DONALD R. BELCHER,
*Assistant Director.*

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